

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

400B0275

HOUSE BILL NO. 1026

Introduced by: The Committee on Judiciary at the request of the Department of Social Services

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding crime victims'
2 compensation.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 23A-28B-28 be amended to read as follows:

5 23A-28B-28. The department shall receive, review and investigate, any application for
6 victims' compensation which has been properly filed. ~~Following such review and investigation,~~
7 ~~and based upon the amount of the claim~~ Unless the department finds that the claim should be
8 determined by the commission, the department shall issue ~~either a recommendation to the~~
9 ~~commission pursuant to § 23A-28B-29 or an order pursuant to § 23A-28B-31.~~ If the department
10 finds that the claim should be determined by the commission, the department shall issue a
11 recommendation to the commission pursuant to § 23A-28B-29. The department shall file any
12 such recommendation or order with the commission and shall serve notice of such by mailing a
13 copy to the claimant.

14 Section 2. That § 23A-28B-29 be amended to read as follows:

15 23A-28B-29. In any case in which a claim ~~exceeds two thousand dollars~~ is to be determined
16 by the commission pursuant to § 23A-28B-28, the department shall issue a written

1 recommendation to the commission regarding compensability of the claim. The commission shall
2 hold a hearing on the claim upon at least thirty days notice to the claimant and any other
3 interested persons. The commission shall consider the recommendation of the department and
4 any objections to the recommendation by the claimant. In addition, the commission may
5 subpoena persons or documents, administer oaths or affirmations and receive any additional
6 relevant evidence which the commission deems necessary to decide the compensability of the
7 claim. Based upon evidence presented at the hearing, the commission may adopt, modify or
8 reject the recommendation of the department. A record of all proceedings at the hearing shall be
9 kept. Any hearing held pursuant to this section may not be deemed a contested case hearing and
10 the provisions of §§ 1-26-16 to 1-26-37, inclusive, governing contested cases and appeals
11 therefrom do not apply. However, the commission shall adopt procedural rules pursuant to
12 chapter 1-26 governing hearings held pursuant to this section.

13 Section 3. That § 23A-28B-31 be amended to read as follows:

14 23A-28B-31. ~~In any case in which a compensation claim is for two thousand dollars or less~~
15 Except as to claims heard by the commission pursuant to § 23A-28B-29, the department ~~may~~
16 shall enter an order which shall include:

- 17 (1) Findings of fact;
- 18 (2) The amount of compensation, if any, payable under the provisions of this chapter;
- 19 (3) The name of any person to whom such compensation is payable;
- 20 (4) A notice that the claimant may request commission review of the order in accordance
21 with § 23A-28B-32; and
- 22 (5) Any other information which the department deems necessary.

23 Section 4. That chapter 23A-28B be amended by adding thereto a NEW SECTION to read
24 as follows:

25 Upon request of the claimant and subject to the limitations set forth in this chapter, including

1 any rules promulgated pursuant to § 23A-28B-20, the department may amend an order entered
2 by the commission pursuant to § 23A-28B-29 or 23A-28B-32. However, such amendments may
3 not exceed five percent of the total amount authorized by the commission. The department may
4 not award compensation for the claim if the commission denied compensation.